U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 28819126

Date: JAN. 10, 2024

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (National Interest Waiver)

The Petitioner, an entrepreneur, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree, as well as a national interest waiver of the job offer requirement attached to this classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Texas Service Center denied the petition, concluding that the Petitioner established he was an advanced degree professional, but had not demonstrated that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal because the Petitioner has not established that his endeavor has national importance and thus, does not meet the first prong of the *Dhanasar* framework.

After a petitioner first demonstrates qualification for the underlying EB-2 visa classification, they must then demonstrate they merit a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016) provides that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion[1], grant a national interest waiver if the petitioner shows:

- The proposed endeavor has both substantial merit and national importance;
- The individual is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

The Petitioner proposes to be the chief executive officer of a software development company, located in [redacted], Florida, "that provides cloud-based transport management systems and complementary IT consultations to operators in the Trucking and Logistics Industries throughout the United States."

[1] *See also Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

The first prong of the *Dhanasar* framework, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Dhanasar*, 26 I&N Dec. at 889.

In her decision, the Director determined that the Petitioner's proposed endeavor is of substantial merit, and we agree. Turning to the national importance of his endeavor, the Director concluded that the Petitioner did not establish that his proposed endeavor has national importance.

On appeal, the Petitioner submits a brief which includes the same information as in his business plan and the expert opinion letter and contends that he has established the national importance of his proposed endeavor. Upon review of the business plan, we note the Petitioner relies, in part, on his three years of experience in the trucking and logistics industries to establish the national importance of his proposed endeavor. However, the Petitioner's expertise and record of success in previous positions are considerations under *Dhanasar's* second prong, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the Petitioner has demonstrated, by a preponderance of the evidence, the national importance of his proposed work.

In addition, the Petitioner emphasizes the importance of the transportation and logistics industries. When determining national importance, however, the relevant question is not the importance of the industry, sector, or profession in which the individual will work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. In *Dhanasar*, we further noted that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance, for example, because it has national or even global implications within a particular field." *Id.*

To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement we look to evidence documenting the "potential prospective impact" of his work. Although the Petitioner's business plan reflects his intention to provide transportation management solutions to his company's clients, he has not offered sufficient information and evidence to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance. In *Dhanasar*, we determined that the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893. Here, we conclude that the record does not show that the Petitioner's proposed endeavor stands to sufficiently extend beyond his clientele to impact the transportation and logistics industries more broadly at a level commensurate with national importance.

Moreover, the Petitioner has not demonstrated that his proposed endeavor has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for the nation. Specifically, he has not shown that his company's business activity stands to provide substantial economic benefits to Florida or to the United States. The business plan does not demonstrate that the benefits to the regional or national economy resulting from the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. In addition, although the Petitioner asserts that his company will hire U.S. employees, he has not provided evidence to establish that the area in which the company will operate is economically depressed, that he would

employ a significant population of workers in that area, or that his endeavor would offer the region or its population a substantial economic benefit through employment levels, business activity, or tax revenue. While the business plan indicates that the Petitioner's company will hire U.S. employees and generate a revenue of approximately $300,000 within five years, the plan does not sufficiently detail the basis for the revenue and staffing projections depicted. The Petitioner's unsupported statements are insufficient to meet his burden of proof. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

We also reviewed the expert opinion letter from a university associate professor in the supply chain management field. In addressing the first prong of the *Dhanasar* framework, we note that the author describes the Petitioner's business in terms that largely resemble his professional plan. The expert opinion letter is very general, significantly focuses on the importance of transportation management services in the transportation and logistics industries, the impact business owners play in the U.S. economy, and national initiatives. However, the letter does not contain sufficient information and explanation of the Petitioner's proposed endeavor, nor does the record include adequate corroborating evidence, to show that the Petitioner's specific proposed work in the transportation and logistics industries offers broader implications in his field or substantial positive economic effects for our nation that rise to the level of national importance. The letter therefore is insufficient to establish the national importance of the Petitioner's specific proposed U.S. work. *See Matter of Caron Int'l, Inc.*, 19 I&N Dec. at 795.

Because the Petitioner has not established the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, he has not demonstrated eligibility for a national interest waiver, as a matter of discretion.[2] Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding the two remaining *Dhanasar* prongs. *See INS v. Bagamasbad,* 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

ORDER: The appeal is dismissed.

[2] *See id.*